City of Seattle

Gregory J. Nickels, Mayor
Department of Planning & Development
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CITY OF SEATTLE
ANALYSIS AND DECISION OF THE DIRECTOR OF
THE DEPARTMENT OF PLANNING AND DEVELOPMENT

Application Number: 2207908
Applicant Name: Troy Hussing for J. Dan Fiorito, Jr.
Address of Proposal: 2503 N. Northlake Way

SUMMARY OF PROPOSED ACTION

Shoreline Substantial Development Permit to change the use of an existing major vessel repair to dry boat storage with future construction of five 35-foot high boat storage racks; a 3-story accessory office building with caretaker unit and boat wash area; two piers with loader stations; and surface parking for 109 vehicles. Demolition of existing structure under separate permit.*

The following Master Use Permit components are required:

Shoreline Substantial Development Permit – to allow dry boat storage in the Urban Maritime (UM) Shoreline Environment - (SMC 23.60.720)

SEPA - Environmental Determination - (SMC 25.05)

SEPA DETERMINATION: [ ] Exempt [ ] DNS [ ] MDNS [ ] EIS

[X] DNS with conditions

[ ] DNS involving non-exempt grading or demolition or, involving another agency with jurisdiction.

*Project originally noticed as Shoreline Substantial Development Permit to change the use of an existing major vessel repair to outdoor storage with future construction of five 55-foot high boat storage racks; a 3-story accessory office building with caretaker unit and boat wash area; two piers with loader stations; and surface parking for 29 vehicles. Demolition of existing structure under separate permit.

BACKGROUND DATA

Site Area and Vicinity Development

The subject site is located on a waterfront parcel along N. Northlake Way between 2nd Avenue NE and Eastern Avenue N (the street name prefix east of 1st Avenue NE is NE Northlake Way and NE Pacific Street). The site is zoned Industrial Buffer with a height limit of 45 feet for non-industrial uses (IB U/45) and is within an Urban Maritime (UM) shoreline environment. The site has an area of 186,150 square feet, of which, about 46,538 square feet is submerged. The site has been used for a number of

purposes over the years including minor vessel repair, dry boat storage, moorage for the historic ferry boat Skansoina and moorage for the Kalakala.

The existing conditions include over water fixed structures totaling 4,031 square feet of area, and associated overwater moorage of large boats equal to approximately 50,426 square feet. The dry land portion of the site is developed with asphalt, concrete and a small one-story building that was used for vessel repair.

North Northlake Way is designated as a minor arterial and is improved with a paved roadway, curb, angled parking, and a pedestrian walkway. Second Avenue NE abuts the property to the east and is an unimproved dead end street. Waterway 16 abuts the property to the east of the subject site's submerged portion. Eastern Avenue N. does not abut the subject site. The 1st Avenue NE. right of way does not go through the site in that the street has been vacated at that location.

Most of the surrounding property to the southeast is zoned IB U/45 and is dedicated to street right of way (N. Northlake Way, Burke-Gilman Trial and N. Pacific Street). Farther southeast, property is zoned single family and is developed with single family homes and duplexes. Property to the northeast is zoned Industrial Commercial 45 (IC-45) and is to be developed with a 3-story office building (DPD project #9905136). Farther northeast, property is zoned Lowrise 3 and is developed with multifamily housing. Property to the north is zoned IB U/45 and is developed with a marine-related warehouse and moorage. Property to the south is zoned IB U/45 and is developed with a restaurant. Other development in the area includes a retail hardware store (Dunn Lumber), Ivar's Salmon House and a diversity of marine related uses.

Proposal

The proposal will provide dry boat storage for 524 boats (maximum length of 30 feet) within rack-style open storage structures. There will be five 35 foot high storage racks (three structures accommodating 128 boats each, one structure accommodating 72 boats and one structure accommodating 68 boats). Additionally, there will be a 35 foot high building accommodating a caretaker unit, boat wash garage and accessory office. There will be a 65 foot separation between the structures to provide maneuvering space for the loading and unloading of the boats and also to serve as the required view corridor. Existing overwater coverage consisting of piers and pilings will be removed. New over water coverage will be constructed and consist of two 8 feet by 90 foot docks and two 10 feet by 12 foot loader stations. Parking for a total of 109 vehicles will be provided in surface lots throughout the site. Thirty six (36) parking spaces will be provided on the northerly portion of the site and will serve the demand on most days. During peak demand, parking will be provided in between the structures and will provide an additional 73 parking spaces. The code required parking is 22 parking spaces. It is estimated that three staff members will run the operation during high use weekends. No general boat launching or other public services will be available in that all services will be for patrons of the facility with boats stored at this location.

Public Comment

The public comment period ended on June 13, 2003. Over 130 comment letters and emails were received during the comment period and to date. In summary, the comments expressed concerns about; view blockage; inadequate parking and street network; public access to Waterway 16; the height

and scale of the structures; fire protection; light pollution; development of the street end; and the general health of the city. Detailed information regarding view impacts and parking was provided by the public.

ANALYSIS - SHORELINE SUBSTANTIAL DEVELOPMENT PERMIT

Substantial Development Permit Required

Section 23.60.030 of the Seattle Municipal Code provides criteria for review of a shoreline substantial development permit and reads: A substantial development permit shall be issued only when the development proposed is consistent with:

A. The policies and procedures of Chapter 90.58 RCW;

B. The regulations of this Chapter; and

C. The provisions of Chapter 173-27 WAC.

Conditions may be attached to the approval of a permit as necessary to assure consistency of the proposed development with the Seattle Shoreline Master Program and the Shoreline Management Act.

A. THE POLICIES AND PROCEDURES OF CHAPTER 90.58.RCW

Chapter 90.58 RCW is known as the Shoreline Management Act of 1971. It is the policy of the State to provide for the management of the shorelines of the state by planning for and fostering all reasonable and appropriate uses. This policy contemplates protecting against effects to public health, the land use and its vegetation and wild life, and the waters of the state and their aquatic life, while protecting public right to navigation and corollary incidental rights. Permitted uses in the shoreline shall be designed and conducted in a manner to minimize, insofar as possible, any resultant damage to the ecology and environment of the shoreline area and any interference with the public's use of the water.

The Shoreline Management Act provides definitions and concepts, and gives primary responsibility for initiating and administering the regulatory program of the Act to local governments. The Department of Ecology is to primarily act in a supportive and review capacity, with primary emphasis on insuring compliance with the policy and provisions of the Act. As a result of this Act, the City of Seattle adopted a local Shoreline Master Program, codified in the Seattle Municipal Code at Chapter 23.60. Development on the shorelines of the state is not to be undertaken unless it is consistent with the policies and provisions of the Act, and with the local master program. The Act sets out procedures, such as public notice and appeal requirements, and penalties for violating its provisions. As the following analysis will demonstrate, the subject proposal is consistent with the procedures outlined in RCW 90.58.

B. THE REGULATIONS OF CHAPTER 23.60

The regulations of SMC, Section 23.60.064 require that the proposed use(s): 1) conform to all applicable development standards of both the shoreline environment and underlying zoning; 2) be permitted in the shoreline environment and the underlying zoning district and 3) satisfy the criteria of shoreline variance, conditional use, and/or special use permits as may be required.

SMC 23.60.004 - Shoreline Policies

The Shoreline Goals and Policies which are part of the Seattle Comprehensive Plan's Land Use Element and the purpose and locational criteria for each shoreline environment designation contained in SMC 23.60.220 must be considered in making all discretionary decisions in the shoreline district.

The purpose of the UM environment is to preserve areas for water-dependent and water-related uses while still providing some views of the water from adjacent streets and upland residential streets. The use proposed is considered a marine retail sales and service use which includes dry storage of boats and commercial moorage uses by definition in SMC 23.60.926. The primary use, dry storage is considered water-related. Some views of the water are preserved as discussed under the specific development standards, view corridors, of the UM environment. The IG2 and the UM shoreline environment permits the proposed uses.

Development Standards

The proposal to remove overwater coverage and construct two new floats for launching boats and the storage of boats on the dry land portion of the site, in the UM shoreline environment, is permitted subject to the general development standards in SMC 23.60.152 and the specific development standards in the UM environment in SMC 23.60.750. The proposed action is therefore subject to the following general and specific shoreline development standards:

General Development Standards for all Shoreline Environments (SMC 23.60.152)

These general standards apply to all uses in the shoreline environments. They require that all shoreline activity be designed, constructed, and operated in an environmentally sound manner consistent with the Shoreline Master Program and with best management practices for the specific use or activity. All shoreline development and uses must, in part: 1) minimize and control any increase in surface water runoff so that receiving water quality and shoreline properties are not adversely affected; 2) be located, designed, constructed, and managed in a manner that minimizes adverse impact to surrounding land and water uses and is compatible with the affected area; and 3) be located, constructed, and operated so as not to be a hazard to public health and safety. The proposed construction of a boat storage and boat launch facility, as designed, is consistent with the general standards for development within the shoreline area. General development standards (SSMP 23.60.152) state that Best Management Practices shall be followed for any development in the shoreline environment. These measures are required to prevent contamination of land and water. The Stormwater, Grading and Drainage Control Code (SMC 22.800) places considerable emphasis on improving water quality. A condition is imposed on this permit pursuant to Shoreline and SEPA authority, to ensure that Best Management Practices are followed. To ensure conformance with the General Development Standards and the Shoreline Master Program, the proponent will be required to notify contractors and subcontractors of the conditions of this permit.

Development Standards for UM Shoreline Environments (SMC 23.60.750)

The development standards set forth in the Urban Maritime Shoreline Environment are as follows:

SMC 23.60.752 Height in the UM Environment

The proposed structures are limited to a maximum height of 35-ft. which is the proposed height of the structures.

SMC 23.60.754 Lot coverage in the UM Environment

The existing submerged land at the site is approximately 46,538 sq. ft. The proposed lot coverage of the submerged portion of the site is 1,728 sq. ft., which is approximately four (4) percent of the site and below the allowable lot coverage of fifty (50) percent.

The existing dry-land portion of the site is approximately 139,612 sq. ft. The proposed lot coverage of the dry-land portion of the site is 38,400 sq. ft., which is approximately 28 percent of the site and less than the allowable lot coverage of seventy-five (75) percent.

SMC 23.60.756 View corridors in the UM Environment

A view corridor or corridors of not less than fifteen (15) percent of the width of the lot shall be provided and maintained on all waterfront lots occupied by a water-dependent or water-related use. The subject site has a width of 750 feet so the required view corridor is 113 feet. The proposal provides four (4) - 65 foot wide view corridors between the storage structures as well as approximately 210 feet on the northeastern portion of the site where the surface parking lot is to be located. Parking is not allowed in view corridors unless it is located 4 feet below the street level or there is no reasonable alternative. In this case, the required view corridors can be located on the western portion of the site where parking is located 4 feet below the street. Additionally, it is reasonable to allow parking within the view corridors on an intermittent basis to meet peak parking demand in that no reasonable alternative exists.

SMC 23.60.758 Regulated public access in the UM Environment

This use is considered a water-related use and is not required to provide public access.

SMC 23.60.760 Development between the Pierhead Line and the Construction Limit Line in the UM Environment in Lake Union and Portage Bay

The project, as designed, has only pier structures located between the Pierhead Line and the Construction Limit Line.

C. THE PROVISIONS OF CHAPTER 173-27 WAC

Chapter 173-27 of the WAC, sets forth permit requirements for development in shoreline environments and gives the authority for administering the permit system to local governments. The State acts in a review capacity. The Seattle Municipal Code Section 23.60 (Shoreline Development) and the RCW 90.58 incorporates the policies of the WAC by reference. These policies have been addressed in the foregoing analysis and have fulfilled the intent of WAC 173-27.

Summary

In conclusion, no additional adverse impacts to the lake bed or water quality are expected, and the proposed boat storage and boat launch facility, as designed, will be consistent with the provisions set forth by 90.58 RCW, 173-27 WAC, and Chapter 23.60 SMC also known as the Seattle Shoreline Master Program (SSMP).

DECISION - SHORELINE SUBSTANTIAL DEVELOPMENT PERMIT

The Shoreline Substantial Development Permit is **CONDITIONALLY GRANTED** subject to the conditions listed at the end of this decision.

ANALYSIS - SEPA

The initial disclosure of the potential impacts from this project was made in the environmental checklist

submitted by the applicant dated April 3, 2003 and annotated by the Department. The information in the checklist, supplemental information provided by the applicant, project plans, and the experience of the lead agency with review of similar projects form the basis for this analysis and decision.

The SEPA Overview Policy (SMC 23.05.665) discusses the relationship between the City's code/policies and environmental review. The Overview Policy states, in part, "Where City regulations have been adopted to address an environmental impact, it shall be presumed that such regulations are adequate to achieve sufficient mitigation". The Policies also discuss in SMC 23.05.665 D1-7, that in certain circumstances it may be appropriate to deny or mitigate a project based on adverse environmental impacts. This may be specified otherwise in the policies for specific elements of the environment found in SMC 25.05.675. In consideration of these policies, a more detailed discussion of some of the potential impacts is appropriate.

Short-term Impacts

The following temporary or construction-related impacts are expected: decreased air quality due to suspended particulate from building activities and hydrocarbon emissions from construction vehicles and equipment; increased dust caused by construction activities; potential soil erosion and potential disturbance to subsurface soils during grading, excavation, and general site work; increased traffic and demand for parking from construction equipment and personnel; conflict with normal pedestrian movement adjacent to the site; increased noise; increases in sedimentation and turbidity, and displacement of some aquatic and wildlife species due to in-water construction and noise; and consumption of renewable and non-renewable resources.

Several adopted codes and/or ordinances provide mitigation for some of the identified impacts. The Stormwater, Grading and Drainage Control Code regulates site excavation for foundation purposes and requires that soil erosion control techniques be initiated for the duration of construction. The Street Use Ordinance requires debris to be removed from the street right of way, and regulates obstruction of the sidewalk. Puget Sound Clean Air Agency regulations require control of fugitive dust to protect air quality. The Building Code provides for construction measures and life safety issues. The Noise Ordinance regulates the time and amount of construction noise that is permitted in the city. In addition, Federal and state regulations and permitting authority (Section 10 and HPA permits) are effective to control short-term impacts on water quality and habitat impacts. Compliance with these codes and/or ordinances will lessen the environmental impacts of the proposed project. While in some cases mitigation measures pursuant to SEPA policies might be necessary, in this case conditions for construction impacts pursuant to Shoreline Permit authority are effective measures designed to control the short-term environmental impacts caused by construction.

It is anticipated that construction for this project will take approximately 1 year to complete. The impacts associated with the construction are expected to be minor and of short duration. Compliance with the above applicable codes and ordinances will reduce or eliminate most adverse short-term impacts to the environment. However, water quality impacts warrant further discussion.

Water Quality (Short-Term)

The applicant's Biological Evaluation submitted as part of their environmental review discloses that during pile and pier removal of existing structures and installation of new in- and over water structures, water quality may be impacted in the project area. Uses of Best Management Practices ("BMPs") are

offered to reduce impacts as necessary. BMPs suggested by the applicant and included as conditions of this project are:

- Installation of a sediment control fence around shoreline and upland work to minimize the amount of sediment introduced to Lake Union.
- Perform construction from a barge or workboat and construction debris will be stockpiled on the barge with the appropriate containment material around the barge so that construction debris does not end up in the water.
- Dispose of all construction debris in the appropriate upland facilities.
- Locate the barge so that it does not ground.
- Develop a spill prevention control and containment plan and ensure that an emergency spill-containment kit is kept at the site and is easily accessible in the event of a toxic spill of any hydraulic fluid or other petroleum products.
- Installation a silt curtain around the work areas.
- Securing proposed shoreline vegetation area to minimize erosion.

Additionally, to minimize construction impacts the requirements of the US Army Corps of Engineers permit issued on December 30, 2003 will be conditions of this permit. These requirements shall be included on the building plan set submitted for this project.

Long Term Impacts

Long-term or use-related impacts are also anticipated as a result of approval of this proposal including: increased bulk and scale on the site; increased traffic in the area and increased demand for parking; increased demand for public services and utilities; increased light and glare; increased energy demand; increased ambient noise associated with increased human activity and vehicular movement; increased human activity in the near-shore shoreline environment; increased light in the near-shore aquatic environment; and continued impacts on fish habitat and migration routes.

Several adopted City codes and/or ordinances provide mitigation for some of the identified impacts. Specifically these are: the Stormwater, Grading and Drainage Control Code which requires on site detention of stormwater with provisions for controlled tightline release to an approved outlet and may require additional design elements to prevent toxic materials from entering the water; the City Energy Code which will require insulation for outside walls and energy efficient windows; the Seattle Building Code which provides prescriptive construction techniques and standards; and the Land Use Code which controls site coverage, setbacks, building height and use and contains other development and use regulations to assure compatible development. Compliance with these applicable codes and ordinances is adequate to achieve sufficient mitigation of most long term long term impacts, although some impacts warrant further discussion and possible mitigation.

Light and Glare

The SEPA checklist discloses that security lighting is expected to be installed at the site. If lights are affixed to the top of poles or on the piers, they could spill light and glare onto the residential properties above the site, onto the adjacent water, or onto the streets.

The introduction of light into the near-shore aquatic environment may have impacts of unknown magnitude upon fish migrating through the site. Depending upon the location and intensity of light introduced that impact may be negative or positive in varying amounts. For this reason, the introduction

of any artificial light sources should be strictly controlled. Conditioning will be imposed to design the illumination pattern of all artificial lighting initially installed on the shoreline piers and floats to minimize to the greatest reasonable extent spill over onto surrounding water surfaces.

The Land Use Code requires lights to be shielded and directed away from adjacent properties, but the provision does not provide any method for shielding the lights. To sufficiently shield any new lights from adjacent property and the water, light fixtures shall be fully shielded and focused on the area needing light. Pursuant to SEPA policy SMC 25.09.675K, Light and Glare and also SMC 25.09.675N, Plants and Animals, the applicant or responsible party will be required to provide a lighting plan in the building permit plans to be approved by DPD to satisfy this condition. The lighting plan shall provide information on location and intensity with sufficient details (cut sheets) to mitigate impacts on the aquatic environment and the adjacent dry land property.

Traffic

The SEPA checklist discloses that activity at the site will primarily take place on weekends during the months May through October. Additionally, it indicates that peak traffic volumes are expected from approximately 10:00AM to noon and 5:00 PM to 7:00 PM which relates to when people will likely launch boats and return from their boating trips. Average trips per day are expected to be about 146. The number of trips, time of trips and dispersal of trips spread out over a 4 hour period is not expected to have adverse impact on the existing street network or operations. Additionally, the roadways typically carry less volume during the weekend as compared to weekdays. Therefore, no SEPA conditioning is necessary.

Parking

The proposal requires 22 parking spaces per the Land Use Code and will provide 109 surface parking spaces. The applicant provided data on estimated peak parking demand in letters from American Engineering Corporation (AEC) dated November 12, 2003 and March 4, 2004. To determine the estimated parking demand, AEC contacted three similar facilities. A summary of the results are provided in Table A:

Name of Facility	No. of boat spaces	Percent of Users on a **Peak** Weekend (est.)	Percent of Users on an **Average** Weekend (est.)
Seattle Boat-Lake Union	116	20%	10%
Port of Edmonds-Edmonds	280	20%	12%
Twin Bridge Marina-Anacortes	250	18-20%	Unknown

The data seems to convey a reasonable estimation of usage at these facilities. Based on the estimates, the subject facility would require 105 parking spaces at peak times (524 boat spaces times 20%) for the patrons, and an additional demand of 4 spaces for staff and caretaker. This would result in a total demand of 109 spaces according to the applicant's peak parking demand analysis.

On average days most of the parking demand is estimated to be met by the proposed parking lot on the northerly portion of the site with little or no need for a valet attendant. On peak weekends the parking demand is estimated to be met by utilizing all the parking on the site. During peak demand, parking will be provided in between the structures blocking the storage racks, and will be configured in a single row

providing 73 parking spaces in addition to the 36 provided on the northerly lot. During peak periods it's likely that a valet parking attendant would be needed to move vehicles to access the boat storage units. During rare occurrences when parking demand is not met by the 109 parking spaces additional spaces would need to be provided to the patrons. In this case, the site could accommodate more vehicles if the space between the structures was configured in two rows of parking spaces, tandem parked or parked in rows; however, this option would likely require the need for a valet parking attendant on a more constant basis in that more boat storage units would be blocked.

In light of that, the applicant will be required by condition to provide staff dedicated for the parking of vehicles on weekends and holidays from opening day of boating season through Labor Day weekend in order to meet peak parking demand and demand in excess of the estimates. This condition assumes that tandem or valet parking may be used to meet peak parking demand. Based on this information, all parking demand is expected to be provided on site and there is not expected to be any parking spillover on the street.

Public View Protection

The applicant submitted an illustrated rendering from the water side and a photo simulation of the proposed structures (55 feet at that time) as viewed from Pacific Street at Eastern Avenue (received by DPD on April 16, 2003). A Visual Impact Study prepared by Kent Berryman Associates, dated December 10, 2003 was received to supplement the earlier information. Further information was requested by DPD; however the applicant's consultant did not provide any further view analysis. In a letter dated February 9, 2004, Kent Berryman wrote, "During the past year our firm has been part of the design process for this project. We have provided artists renderings, projected computer models for numerous site plan alternatives and modified our studies for reduced building heights. In our professional opinion, the presented proposal optimizes, and is sensitive to, views to the skyline and waterfront."

Additionally, a view study was submitted by Dawn Reeder, a neighbor which provided numerous photos of the views and analysis of the views.

All the submitted information as well as personal site visits forms the basis for our analysis.

The subject site abuts N. Northlake Way and is adjacent to Pacific Street both of which are designated scenic routes as identified in SEPA (Exhibit 1- SEPA Scenic Routes Map North Seattle).

SEPA Policy 25.05.675 P.2a states that *"it is the City's policy to protect public views of significant natural and human-made features: Mount Rainier, the Olympic and Cascade Mountains, the downtown skyline, and major bodies of water including Puget Sound, Lake Washington, Lake Union and the Ship Canal, from public places consisting of the specified viewpoints, parks, **scenic routes**, and view corridors, identified in Attachment 1 (Section 25.05.675).* The policy background (SMC 25.05.675P1c) provides examples of when public views are obstructed, "*...when a proposed structure is located in close proximity to the street property line, when development occurs on lots situated at the foot of a street grid pattern, or when development along a street creates a continuous wall separating the street from the view*".

The views of Lake Union abutting the site's shoreline will be diminished by the proposed structures, but 65 foot wide corridors will be provided between the structures as required to provide for shoreline view corridors. The code required view corridors will provide adequate viewing windows towards Lake

Union directly abutting the site and no further conditioning is necessary to protect those particular Lake Union views. The other views must be analyzed further.

The site has about 750 feet of frontage along N. Northlake Way, so the direction, quality and features of the view are dynamic. Because of the angles of the sight involved, and the distance of the skyline, mountains and lake from the scenic routes, the views change as one moves from place to place along the site frontage. Arguably but reasonable in this case, views looking southerly of the downtown skyline with Lake Union in the foreground and the Olympic Mountains in the background can be considered to be the most powerful and pleasing. The directions of the views are almost parallel to the N. Northlake Way street right of way in a southerly direction. Based on personal observation, the optimal views can be seen on the eastern portion of the site in that N. Northlake Way curves to the north slightly making views to the south easier to see. The disadvantage is that the view shed from 2nd Avenue NE goes through the site from these view points. However, the proposal plans to provide surface parking on the eastern end of the site which somewhat alleviates the view obstruction when looking south from the eastern end of the site. The parking of vehicles may obscure some of the near views but should not block the far away views of the skyline. The 2nd Avenue NE right of way provides a view corridor of 60 feet in the southerly direction. The proposal will provide another 60 feet of view corridor in the southerly direction and about 210 feet if measured perpendicular to the street.

A more expansive view of the same features can be viewed from Pacific Street which is about 33 feet above the site elevation. City of Seattle GIS indicates the Pacific Street roadway at elevation 58 and based on project drawings, the site is to have a finished grade of about 25 feet where the structures are proposed. The proposed open boat storage units are proposed to be 35 feet high so they should appear to be about level or a few feet higher than the Pacific Street elevation. View opportunities of the protected features are ample along Pacific Avenue and the Burke-Gilman trial which abuts the street at this location. The views along some portions are stunning with no obstruction which makes any encroachments into this view shed more noticeable. However, views will not be significantly blocked or cut off views entirely along the project's frontage facing Pacific Street. The 2nd Avenue NE right of way along with the project's surface parking lot will alleviate some of the view impacts.

Based on the submitted information and on personal observations, from Pacific Street, it is likely that the downtown skyline, Lake Union and Space Needle will be partially obstructed depending upon the exact location of the view. It is likely that the views of Lake Union in the foreground will be the most impacted by the proposed structures; however, the 65 foot wide view corridors will alleviate some of those impacts.

The project will be conditioned to provide a reasonably unobstructed view through the surface parking lot and the 2nd Avenue right of way. The project drawings shall indicate this area as a view corridor and no structures, oversized vehicles, storage of materials or obstructions that would otherwise block views shall be allowed in the surface parking lot (northeast of the most northeast structure) and including the southeast 30 feet of the 2nd Avenue NE right way. The parking of vehicles will be allowed on the private property, but not in the 2nd Avenue NE right way. To optimize viewing opportunities, no parking shall be allowed on the half of the right of way abutting the subject property.

In summary, the proposed project will provide approximately 470 feet of view corridor (perpendicular to the street) which represents 63% of the site width. The remaining 37% of the site is to be developed with open storage racks which can provide some opportunity for views when compared to an enclosed structure. However, it is recognized the proposed will diminish some views from both scenic routes, but will not significantly obstruct the views under SEPA policy to warrant further conditioning.

Private views from residential properties northeast of the site and public views from Eastern Avenue Park and the Burke-Gilman trail are not protected under SEPA policy; therefore no mitigation authority is provided to the Decision maker.

Drainage and Water Quality

The site is currently covered by impervious surface and this condition is not proposed to change. The activities that will take place at the site have a potential for introducing petrochemicals onto the site.

Because of the proximity of the site to Lake Union, these petrochemicals can be easily introduced into this water body f measures are not taken to prevent the introduction of such substances. A water collection system will be installed on the loader decks. This water will be directed to the water collection system that will collect water from the site and treat it with an oil water separator before it is discharged from the site. These measures will mitigate the potential water quality and drainage impacts.

The materials used in the construction of the structures at the site can impact water quality. The project proponent has proposed to use steel piles instead of treated wood piling and the decking material used for the new piers will be of non-treated wood or other non-toxic material.

Originally, the project proponent indicated that Osmocote would be used to fertilize the vegetation that will be planted along the shoreline. However, it has been determined that Osmocote contains metals such as arsenic, cadmium, nickel, lead, zinc, and mercury, which can potentially impact water quality therefore as a condition of the project no pesticides, herbicides or chemical fertilizers will be allowed to be used in the shoreline environment.

Plants and Animals

Assessing environmental impacts of the project for purposes of possible SEPA conditioning requires comparison to the existing on-site conditions. The total over water coverage from structures (piers and floats on the project site is expected to be reduced from 4,031 sq. ft. to 1,728 sq. ft. This is a reduction of 2,303 sq ft of overwater coverage. The overwater coverage caused by floating businesses and moored vessel is approximately 50,426 sq. ft. Once the project is completed, there will be no permanently moored vessels, which will result in a reduction of this 50,426 sq. ft of overwater coverage. The configuration and design of the new overwater coverage area will be such that the concrete decks of the loader stations will be elevated 4.5 feet above the water, which will allow light to reach the area under these structures. The new pier and float structures will have grating incorporated into the decking and no treated wood will be used in the any of the other decking material. However, the number of piling that exists at the site will increase from 21 to 44. These new piles will be steel and will vary in size from 10 inches in diameter to 16 inches in diameter. The shoreline area of the site will be planted with native vegetation. This will benefit the aquatic environment by providing terrestrial input to the lake in the form of insects, woody debris, and leaf litter, which feed the aquatic food web and provide habitat forming elements to the aquatic habitat. To ensure the long term benefits of the shoreline planting a vegetation monitoring plan is required for this vegetation that ensures 80 percent survival of this vegetation after a period of 5-years from planting.

These design measures are expected to have a net positive impact on fish habitat. However, the nature and full extent of these measures are not certain.

Chinook salmon, a species listed as threatened under the Endangered Species Act (ESA) in March 1999, are known to inhabit Lake Union including the proposed project area. Under the City of Seattle's Environmental Policies and Procedures 25.05.675 N (2) it states in part: A high priority shall also be given to meeting the needs of state and federal threatened, endangered, and sensitive species of both plants and animals.

This project is proposed to occur in the nearshore environment and in deeper waters of Lake Union, which is habitat of Chinook salmon. The project site serves as a migration corridor as well as rearing habitat for juvenile Chinook salmon from the Cedar River and other water bodies in Water Resource Inventory Area 8. Additionally, predators of juvenile Chinook are known to inhabit areas under pier structures and may use these areas as cover while preying on juvenile Chinook. Small mouth bass, an introduced predator of juvenile Chinook, also use the base of pilings and debris piles as nesting sites.

Clearly identified impacts include continued over water coverage and an increase in the number of pilings in aquatic habitat used by a threatened species. Overwater coverage in the form of pier structures and floats and piling reduces the amount and quality of natural habitat of juvenile Chinook salmon and provides habitat for introduced predator species of juvenile Chinook. Measures proposed by the project proponent to mitigate impacts to the ESA listed species and other aquatic wildlife [Biological Evaluation dated March 27, 2003] include using steel piles, which are less toxic than treated wood piling, the inclusion of grating in the decks of piers and floats to allow for greater light penetration

under the proposed piers and floats and the installation of a stormwater collection system that will remove petrochemicals from the stormwater before it is released from the site. The project proponent will also remove all debris that is currently on the substrate at the site and will plant approximately 250 lineal feet of the shoreline with native vegetation and reduce the amount of over water coverage by approximately 97 percent. Each of these measures is believed to improve habitat conditions for native fish species utilizing the site. Collectively they are believed to help eliminate dark areas under the over water structures; eliminate debris on the substrate, which provides habitat for small mouth bass, an introduced fish species. Predators of juvenile salmonids are known to inhabit under pier areas.

The applicant has provided a Clean-up Documentation Plan that describes the procedures that will be used to ensure that all debris will be removed from the substrate at the site has been provided. Additionally, before and after video documentation will be included as part of the documentation. There is potential for debris and other deleterious material to enter the water during construction, BMPs will be required to minimize this potential.

Other Impacts

The other impacts associated with this development are sufficiently mitigated by existing City code and regulations

DECISION - SEPA

This decision was made after review by the responsible official on behalf of the lead agency of a completed environmental checklist and other information on file with the responsible department. This constitutes the Threshold Determination and form. The intent of this declaration is to satisfy the requirements of the State Environmental Policy Act (RCW 43.21.C), including the requirement to inform the public of agency decisions pursuant to SEPA.

[X] Determination of Non-Significance. This proposal has been determined to not have a significant adverse impact upon the environment. An EIS is not required under RCW 43.21C.030(2)(c).

[ ] Determination of Significance. This proposal has or may have a significant adverse impact upon the environment. An EIS is required under RCW 43.21C.030(2)(c).

SEPA AND SHORELINE CONDITIONS

Prior to Issuance of a Construction Permit

The owner(s) and/or responsible party(s) shall:

1. Revise the plans to include a written description of the Best Management Practices that will be used during the proposed work to keep debris and deleterious material out of the water. The BMP shall include the following:
    a) Install a sediment control fence around shoreline and upland work to minimize the amount of sediment introduced to Lake Union.
    b) Perform construction from a barge or workboat and construction debris will be stockpiled on the barge with the appropriate containment material around the barge so that construction debris does not enter the water.
    c) Dispose of all construction debris in the appropriate upland facilities.
    d) Locate the barge so that it does not ground.
    e) Implement the spill prevention control and containment plan and ensure that an emergency spill-containment kit is on hand to contain any hydraulic fluid or other petroleum products should any discharge into the water occur.
    f) Check equipment using oil, gasoline, or diesel used on site for evidence of leakage, daily, if evidence of leakage is found the further use of such equipment shall be suspended until the deficiency has been satisfactorily corrected.

g) Install a silt curtain around the work areas.
h) If floating debris enters the water during the proposed work this debris shall be removed immediately and stored until it can be disposed of at an appropriate upland facility.
i) If heavy (sinking) debris enters the water during the proposed work, the location of the debris shall be documented. When construction is complete, a diver shall retrieve all debris that has entered the water and sunk during the proposed work.
j) Install a floating boom to contain debris that enters the water and a silt curtain to contain turbid water.

2. Revise the plans to show a vegetation monitoring plan that ensures 80 percent survival of the native shoreline vegetation planted.
3. Revise the plans to show the requirements of the Army Corps Permit issued on December 30, 2003.
4. Revise the plans to show a lighting plan. To sufficiently shield any new lights from adjacent property and the water, light fixtures shall be fully shielded and focused on the area needing light. The lighting plans must be approved by DPD to satisfy this condition. The lighting plan shall provide information on location and intensity with sufficient details (cut sheets) to mitigate impacts on the aquatic environment and the adjacent dry land property.
5. Revise the plans to indicate the surface parking lot (northeast of the most northeast structure) as a view corridor and indicate that no structures, oversized vehicles, storage of materials or obstructions that would otherwise block views shall be allowed in the view corridor. The parking of vehicles will be allowed on the private property. To optimize viewing opportunities, no parking shall be allowed on the half of the right of way abutting the subject property by posting "no parking" signs and designing the right of way in a configuration that discourages parking. Additionally, no street use permits shall be granted to allow storage in the abutting half of the right of way.

Prior to start of construction

The owner(s) and/or responsible party(s) shall:

1. Notify in writing all contractors and sub-contractors all the conditions of this permit.
2. Develop an emergency containment plan and procedures for all toxic material that will be kept on site. All necessary equipment for containment and clean-up of this toxic material should be stocked on the site. A sufficient number of personnel, both during construction and during on-going operations, shall be trained in the proper implementation of this plan.
3. Obtain a Hydraulic Project Approval Permit from Washington Department of Fish and Wildlife and follow the required conditions.

During Construction

The following conditions to be enforced during construction shall be posted at the site in a location on the property line that is visible and accessible to the public and to construction personnel from the street right-of-way. If more than one street abuts the site, conditions shall be posted at each street. The conditions will be affixed to placards prepared by DPD. The placards will be issued along with the building permit set of plans. The placards shall be laminated with clear plastic or other waterproofing material and shall remain posted on-site for the duration of the construction.

The owner(s) and/or responsible party(s) shall:

4. Shall follow BMPs to prevent debris and other deleterious material from entering the water during demolition and construction.
5. Provide before and after video documentation for removal of debris, on private and leased area, as part of the Clean-up Documentation Plan.
6. Use no treated wood in any decking material.
7. If treated wood is proposed for other structures, this wood shall be professionally treated and completely cured using the best management practices developed by the Western Wood Preservers Institute (http://www.wwpinstitute.org/) before this wood is used for this project.

Life of the Project

The owner(s) and/or responsible party(s) shall:

8. Maintain function of all deck grating by removing debris or other material that would inhibit light passage through to the surface of the water.
9. Maintain a stormwater collection system to separate oil and other petrochemicals from the stormwater from the site before it is discharge off the site.
10. Maintain for five years to ensure 80 percent or greater survival all the native vegetation along 250 lineal feet of the shoreline. This vegetation shall not be removed without prior City of Seattle DPD approval.
11. Use chemical free fertilizers in the vegetation planted at the site. Do not use osmocote.
12. No herbicides, pesticides or chemical fertilizers shall be used in the shoreline area.
13. Extreme care shall be taken to ensure that no petroleum products, other toxic substances, including herbicides pesticides, chemical fertilizers, miscellaneous debris and/or other deleterious materials are allowed to enter or leach into the lake.
14. Maintain the lighting as approved by the lighting plan.
15. Maintain the view corridor as approved and indicated on the project plans.

Signature: (signature on file) Date: May 6, 2004

Jess Harris, AICP
Land Use Planner
Department of Planning and Development

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